

## REMARKS/ARGUMENTS

Claims 1-21 are pending in this case and are presented for re-examination in view of the following comments.

In the Outstanding, non-final Office Action, the Examiner required a new declaration; required a new, descriptive title of the invention; objected to the specification as "being replete with grammatical and idiomatic errors...;" rejected all claims as being indefinite; and rejected all claims as being anticipated by a newly cited reference. No claim stands allowed or allowable.

By this Amendment, a newly executed declaration is enclosed; the title of the invention has been amended, and as amended it is submitted that the objection of the Examiner has been obviated; the specification has been reviewed and amended and as amended it is submitted that the objection of the Examiner has been obviated; and those claims rejected as being indefinite have been amended, and as amended are fully compliant with the requirements of Section 112, second paragraph. However, the rejection of the claims as being anticipated by the newly cited U.S. Giorgetta et al. patent (No. 6,775,799) (the Giorgetta reference) is expressly and specifically traversed and reconsideration of this rejection is requested in view of the comments and arguments set forth below. The claims that have been amended have been so amended solely to obviate any possible problems with Section 112, second paragraph. No claim has been amended in view of the art rejections and it is submitted that the scope of each amended claim has not been narrowed by the amendment.

## **I. NEW TITLE**

The Examiner has required a new title on the basis that the original title was not descriptive.. Accordingly, the specification has been amended to provide a new title in which the words "by creating a combined packet flow" has been added. It is submitted that this amended title is now sufficiently descriptive and thus that the objection has been obviated.

## **II. OBJECTION TO THE SPECIFICATION**

The specification has been reviewed and amended not only at those locations pointed out by the Examiner, but also at other locations where difficulties were located. It is submitted that by these amendments no new matter has been added and that the Examiner's objections have been obviated.

With respect to the Examiner's questions about "source which receives ..." and "sink which transmits ...:", both the description on page 4, lines 12-15 and Claims 13 and 18, as well as other affected claims, have been amended so as to minimize any confusion. The term "source element" is now replaced with the term "source adaptation element," which is fully supported by the original Fig. 3. As can be seen from Fig. 3, the source adaptation element cannot operate without receiving Ethernet information packets, i.e. the source adaptation element receives them, a source function block of the adaptation element creates service packets, and the source adaptation element may then transmit the service packets in a combined flow wiht the information packets. Similarly the term "sink element" has been replaced with a term "sink adaptation element," which receives service packets in a combined paket flow where they are

mixed with the informational Ethernet packets; a sink function block of the sink adaptation element may then separate and transmit (i.e. feed) the separated information Ethernet packets to a second Ethernet device (support is readily found in the original Fig. 3 of the present application).

### **III. REJECTIONS UNDER 35 USC§102e**

In the Office Action, the Examiner rejected all 21 claims as being anticipated by the Giorgetta reference. The Examiner stated with respect to Claim 1:

Giorgetta taught a method of providing a signaling channel (e.g. Abstract) for performing one or more signaling functions at the level of Ethernet (e.g., see Abstract) wherein telecommunication (e.g. see col. 1 (line 11 "Internet" was telephone based (in part)) is organized by information packets forming an information flow (e.g. see figure 6 (202)), the method comprises utilizing a combined flow (e.g. see figure 6 (208 and 216) and col. 10 (line 7-et seq.)) composed from said information flow (e.g. see figure 6 (202) and one or more service flows (e.g., see figure 6 (205b)) formed from service packets (e.g., see col. 8 (line 64-et seq.)) being compatible with said information packets ("compatible" being herein defined on page 4 (lines 114-15) of this application in paragraph [0020]), wherein the service packets belonging to a particular service flow carry indication of a corresponding one of said signaling functions to be performed, while 1 or more service flows form the signaling channel at the level of Ethernet (e.g. see col. 9 (line 60-et seq.)).

### **REPLY**

Applicants strongly disagree with the Examiner's rejection based on this newly cited Giorgetta reference, and reconsideration is respectfully requested.

In comparison with the invention claimed in Claim 1, the Giorgetta reference (as well as the previously cited Naveh reference and other cited references) does not describe or suggest

creating or using at least one service flow formed from service packets  
combinable/multiplexable with an information Ethernet packet flow.

Further, Giorgetta neither describes producing service packets, nor inserts any indication of a service function in such service packets. Therefore, Giorgetta cannot anticipate the present invention as originally claimed.

Giorgetta proposes “engaging”, in the fast Ethernet traffic, performance monitoring operations, such as Forward Error Correction (FEC) operation known for many optical networks protocols (SONET, SDH, OTN). The operations of performance monitoring of the Ethernet traffic, **as they are described and illustrated in the Giorgetta reference**, comprise monitoring the Ethernet traffic (see block 30 in Fig. 3) **but do not produce any packet flow (service flow)** which would be combined/multiplexed with packets of the Ethernet traffic (information flow). The above fact is demonstrated by the “dead ends” of box 30 of Fig. 3 and of box 205c of Fig. 6: **they do not have outgoing arrows which would mean combining any new flow with the existing data traffic.**

The Giorgetta’s term “engaging” can be understood only in the meaning of applying, since any other meaning has no support in the Giorgetta’s description in its specification.

The maximal influence of the monitoring results which can be understood from studying the Giorgetta reference is that, for example, in the FEC operation, a continuous sequence of bits **(not packets!)** is produced while monitoring information packets, and such bits are somehow introduced into packet headers of the monitored informational packets (FEC processing of any information stream is followed by encoding that information stream).

As has been mentioned in the response to the previous Office Action, the modification if at all performed at the Ethernet level, relates to a known standard functionality at the Ethernet level, according to which the informational packets are changed depending on the errors in the Ethernet traffic.

The Giorgetta reference, similarly to the previously cited Kalman reference, mentions that data in the information stream can be modified (for example, headers of the packets can be modified). In the Kalman reference, where we could assume that the "modification" is performed at the Ethernet layer, Giorgetta modifies SDH frames at the SDH/SONET layer; however, both in Kalman and in Giorgetta, no additional/separate service packet flow is created; any modifications affect the informational packets/frames/streams themselves.

Contrary to that, **the present invention as claimed, proposes forming a separate flow of additional service packets to be transmitted together (in a combined packet flow) with the informational packets at the Ethernet level - and does not propose modifying informational packets.**

In section 18 of the Office Action, the Examiner contends that Giorgetta describes combining (interleaving) information and service flows.

Firstly, since Giorgetta does not describe service packet flows, he cannot describe such interleaving.

Secondly, **what Giorgetta does describe is the interleaving of informational flows:**

Fig. 6 and the related description disclose that Giorgetta modifies information flows at the SDH/SONET layer (block 205b). Giorgetta interleaves ndata streams (block 216) which, in

any possible combination, are information streams. Moreover, the informational flows are combined at the SDH/SONET level. The GBE performance monitoring 205c does not produce any additional packet flow - see the "dead end" of block 205c in Fig. 6 and the similar "dead end" of the block 30 in Fig. 3).

**Giorgetta neither describes nor suggest providing any signaling/service packet flow at the Ethernet layer, and, consequently, does not and cannot propose interleaving/combining such a service packet flow with any of the mentioned informational flows.**

In view of the above arguments, Claim 1 should be considered patentable in view of the above arguments.

In paragraph 19 of the Office Action, the Examiner discusses his rejection of Claim 2. The Applicants disagree with the Examiner's criticism of Claim 2. At least in view of the above arguments, Claim 2 is patentable. Moreover, the Examiner refers to Figures 2,3,6 and the Abstract of Giorgetta, through neither of them describes/suggest providing operating points between any network domain and an Ethernet network (device), and definitely the cited figures/abstract do not describe the specific equipment of such operating points, as described in Claim 2.

In paragraph 20 of the Office Action, the Examiner discusses his rejection of Claim 3. In respect to Claim 3, the Giorgetta reference might describe producing any succession of binary information based on monitoring SDH/SONET information stream (the paragraph bridging col.

9 and col. 10 of Giorgetta). However, no service/signaling packets are formed by Giorgetta from that binary information; that information is used for modifying the same information flow.

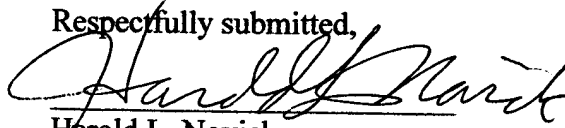
In a similar way, all of the remaining Examiner's rejections become null and void at least in view of the arguments presented with respect to Claim 1. For example, in section 25, the Examiner criticizes Claims 11 and 12 by referring to Giorgetta where an indication of a particular signaling function is provided in a header of a packet/frame. However, as in Claim 1, the Examiner overlooks the fact that Giorgetta speaks about the information packets/frames, while the present invention claims inserting an indication of a service function into the newly created service packets.

### CONCLUSION

In light of the foregoing, Applicants submit that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned attorney. The Examiner is hereby authorized, without the need of further contact by the Examiner, to enter an Examiner's Amendment to correct any cases where an antecedent basis is lacking.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Charge any fee deficiency or credit any overpayment to Deposit Account: No. 14-0112.

Date: July 26, 2006  
NATH & ASSOCIATES PLLC  
112 South West Street  
Alexandria, VA 22314  
(703) 548-6284

Respectfully submitted,  
By:   
Harold L. Novick  
Registration No. 26,011  
Customer No. 20529